IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9049 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHARUCH DIST. CO. MILK PRODUCERS UNION LTD

Versus

EMPLOYEES OF DUDH DHARA DAIRY

Appearance:

MR NK MAJMUDAR for Petitioner

MRS DT SHAH for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/07/2000

ORAL JUDGEMENT

#. This matter was admitted on 10.1.89 and ad-interim stay in terms of para 8(C) has also been granted which continues for all these years. As a result of this interim relief granted by the court the order of the

Labour Court, Bharuch dated 30.8.88 in the Recovery Application No.36 of 1987 remained under stay.

#. The learned counsel for the petitioner contended that the application filed by the respondent under Section 33C(2) of the Industrial Disputes Act, 1947 was not maintainable as under these proceedings, which are akin to the execution proceedings no substantial claim can be claimed and adjudicated. It has next been contended that this contention has been raised by the petitioner before the Labour Court and issue has also been framed but the Labour Court has decided it by stating that this matter falls under the category of Industrial Disputes Act. Lastly it is contended that grant of 3 times wages for over time work is otherwise wholly arbitrary and unjustified.

#. Ms. D.T.Shah, learned counsel for the respondent supported the order passed by the Labour Court.

#. The point raised re. the jurisdiction of the Labour Court to entertain the application filed by the respondents under Section 3C(2) of the Act, 1947 has not been decided in its correct perspective by the Labour Court. This point relates to the jurisdiction of the Labour Court to entertain the application and it has to be decided on merits but the Labour Court felt contended and satisfied by saying that the matter covers under the Industrial Disputes Act. It is the claim of the respondent for performing duty on holidays. Equally I find sufficient merits in the contention of the learned counsel for the petitioner that 3 times wages could not have been awarded to the respondent even if their claim made even has some merits for over time or to work on holiday. The learned counsel for the respondent has failed to justify how three times wages could have been awarded to the employees who are working on holidays. These are the points which need detailed examination thereof and as a result of which I consider it to be a fit case to remand the matter back to the Labour Court. Order accordingly. The award of the Labour Court, Bharuch dated 30.8.88 in Recovery Application No.36 of 1987 is quashed and set aside and the Labour Court, Bharuch is directed to restore the reference to its original number and decide it in accordance with law and keeping in view the observations made in the judgment within a period of 3 months from the date of the receipt of the writ of this order. Rule and Special Civil Application stand disposed of accordingly with no order as to costs.

(S.K.Keshote, J.)

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